



February 20, 2001

Mr. Wiley B. McAfee  
Police Legal Advisor -  
City of Irving  
P.O. Box 152288  
Irving, Texas 75015-2288

OR2001-0625

Dear Mr. McAfee:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID# 144307.

The City of Irving Police Department (the "city") received a request for information related to case numbers 00-001187 and 00-035217. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Since your argument under section 552.101 resolves this request, we do not address your section 552.108 argument.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." This section encompasses information protected by other statutes.

Section 58.007 of the Family Code makes confidential law enforcement records of juvenile conduct that occurred on or after September 1, 1997. This section protects the records of a child. "Child" is defined as a person who is ten years of age or older and under 17 years of age or a person who is older than seventeen years of age and younger than 18 years of age and is found to have engaged in delinquent conduct or conduct indicating a need for supervision as a result of acts committed before becoming 17 years of age. Fam Code § 51.02(1). Thus, section 58.007 deems confidential law enforcement records of all delinquent conduct or conduct indicating the need for supervision engaged in by an individual who was between ten and seventeen years of age at the time of the commission of an act that occurred on or after September 1, 1997. In this case, the submitted information consists of law enforcement records of conduct committed by an individual who was thirteen years old at the time of the incidents. The incidents occurred after September 1, 1997. None

of the release provisions of section 58.007 of the Family Code apply. Therefore, this information is made confidential by section 58.007 of the Family Code, and must be withheld in its entirety under section 552.101 of the Government Code.

This letter ruling is limited to the particular records at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

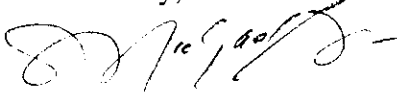
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns", with a stylized flourish at the end.

Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MB/er

Ref: ID# 144307

Encl. Submitted documents

cc: Mr. Paul Jordan  
P.O. Box 154248  
Irving, Texas 75015-4248  
(w/o enclosures)